

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
GREGORY & SARAH GANSE	*	CASE NO.: 4163
	*	
(Variance – NAR/LDA)	*	
	*	
* * * * *		

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Gregory and Sarah Ganse, property owners and Roger Leonard, Avalon Builders (“Applicants”), for a variance to exceed lot coverage limitations by eight percent (8%). The subject property located at 241 Veasey Ford Rd., Elkton, Maryland 21921, being designated as Parcel 418 ED 05, Acct ID 080770, on Tax Map 42 (the “Property”), in an area presently zoned Northern Agricultural Residential (NAR) with Limited Development Area (LDA) Critical Area Overlay district.

Under the provisions of Article XVII, Part I, Section 306, Paragraph 1, variances, as defined in Article II, may be granted by the Board of Appeals. In addition, due to special features of a site or other circumstances where a literal enforcement of provisions relating to the Critical Area District would result in unwarranted hardship to property owner, the Board of Appeals may grant a variance in the Critical Area District based on the following criteria:

A. The variance requested is based upon a situation where, because of special circumstances, a literal enforcement of the provisions of the Ordinance would deprive the applicant of a right commonly enjoyed by other parties in the same zone under the terms of this Ordinance.

B. Special conditions and circumstances exist that are peculiar to the land, buildings, or structures involved, and that are not applicable to other lands, buildings, or structures in the same zone, such conditions and circumstances not being the result of actions by the applicant.

C. The granting of the variance will not confer upon the applicant any special privileges that are denied by this Ordinance to other properties in the same zone.

D. The variance request does not arise from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

E. Variance requests in the Critical Area District shall not be granted unless the decision is based on the following additional criteria:

- 1) Special conditions or circumstances exist that are unique to the subject property or structure and a strict enforcement of the provisions within the Critical Area District would result in unwarranted hardship that is not generally shared by owners of property in similar management areas (i.e. IDA, LDA, RCA) of the Critical Area.
- 2) Strict enforcement of the provisions within the Critical Area District would deprive the property owner of rights commonly shared by other owners of property in similar management areas within the Critical Area District.
- 3) The granting of a variance will not confer upon any applicant any special privilege that would be denied to other owners of like property and/or structures within the Critical Area District.

- 4) The variance request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels.
- 5) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area District, and that the granting of the variance will be consistent with the spirit and intent of the County's Critical Area Program and associated ordinances as well as state law and regulations adopted under Subtitle 18 of the Natural Resources Article and COMAR 20.01.
- 6) Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance.

On September 26, 2022, Applicants appeared and testified in support of their application seeking a variance to the lot coverage limitation by eight percent (8%), which would create a total coverage area of 23%, to rebuild a residential structure demolished by storm in 2022. Applicants propose to move the footprint of the home to a different location on the property outside of the Critical Area Buffer. Applicants further testified that the insurance company did not determine the damage from the storm to be a total loss, so they are limited to the amount awarded to renovate the home.

No witnesses spoke in favor or in opposition of the Application.

The Board considered the testimony provided by the Applicants and the standards set forth in Section 306 and concluded the following findings of facts:

1. The variance request is based upon a situation where special conditions or circumstances exist that are unique to the subject property or structure and a strict enforcement of the provisions within the Critical Area District would result in unwarranted hardship that is not generally shared by owners of property in similar management areas of the Critical Area. The home was severely damaged in a natural storm leaving the property owners with an unlivable residence. The property owners' proposal to relocate the home would move it outside of the Critical Area Buffer, improving impact to wildlife and vegetation in the Critical Area decrease the need for coverage (shorter driveway).

2. Strict enforcement of the provisions within the Critical Area District would deprive the property owners of rights commonly shared by other owners of property in similar management areas within the Critical Area District. It is a reasonable use of the Property to have a residential structure and accessory structures. The Applicants are requesting to rebuild their residents after a natural disaster – an event they did not foresee or cause.

3. The granting of the variance will not confer upon the Applicant special privileges that are denied by this Ordinance to other properties within the Critical Area District. Neighboring properties contain residences, sheds, and other accessories similar to the subject Property, and, as stated in the previous paragraph these are reasonable uses of a residential property such as this. Therefore, there is no special right or privilege afforded these property owners by virtue of the granting of the variance.

4. There is no evidence that the variance request arises from any condition to land or building use, either permitted or non-conforming, on any neighborhood property.

5. The Board finds that the granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area District, and that the granting of the variance will be consistent with the spirit and intent of the County's Critical Area Program and associated ordinances as well as state law and regulations adopted under Subtitle 18 of the Natural Resources Article and COMAR 20.01. In fact, the proposed location of the new home will be farther from the buffer, and thereby diminishing impact to the water quality, fish, wildlife, and plant habitats in the Critical Area.

6. Based upon all of the evidence submitted, the proposed variance is the minimum variance that will make possible the reasonable use of the land. Additionally, the Board finds that the granting of the variance will be in harmony with the general purpose and intent of the Cecil County Zoning Ordinance and shall not result in a use not permitted in the zone in which the Property is located and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The Applicants testified they could decrease the lot coverage from what the Application requests to a total coverage of nineteen percent (19%) – a four percent (4%) variance to the lot coverage limit of fifteen percent (15%) for a lot this size.

For the reasons stated, by unanimous vote, the Board is satisfied that the criteria set forth in Section 306 have been met, and the application is therefore **GRANTED**.

All applicants are hereby notified that they are required to obtain any and all necessary licenses and permits required for the use described herein.

Date

10/24/22

Mark Saunders, Chairperson

**BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND**

MEET. MONTH: Sept 2022
FILE NO. 4123

THIS REQUEST IS FOR:
 SPECIAL EXCEPTION RENEWAL
 SPECIAL EXCEPTION
 VARIANCE
 APPEAL



DATE FILED: 8/18/22
 AMOUNT PD: \$250
 ACCEPTED BY: JB

A. APPLICANT INFORMATION - ALL APPLICANTS MUST SIGN

Gregory and Sarah Ganse and Roger Leonard c/o Avalon Custom Builders

APPLICANT NAME - PLEASE PRINT CLEARLY

901 High Meadow Court Lancaster, PA 17601

132 EAST MAW ST. ELKTON, MD 21921

ADDRESS

CITY

STATE

ZIP CODE

Sarah Ganse (Aug 23, 2022 14:36 EDT)

Roger Leonard (Aug 23, 2022 13:58 EDT)

APPLICANT SIGNATURE

443-907-3512

PHONE NUMBER

B. PROPERTY OWNER INFORMATION - ALL PROPERTY OWNERS MUST SIGN

Gregory and Sarah Ganse

PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

241 Veasey Ford Rd. Elkton, MD 21921

ADDRESS

CITY

STATE

ZIP CODE

PROPERTY OWNER SIGNATURE

PHONE NUMBER

C. PROPERTY INFORMATION

241 Veasey Ford Rd. Elkton, MD 21921

PROPERTY ADDRESS

05

ELECTION DIST.

080770

ACCT. NUMBER

0042

19

0418

LOT #

.96 acres

#ACRES

NAR

ZONE

TAX MAP

BLOCK

PARCEL

D. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

To keep current pervious impervious coverage as existing at 23%.

Intent is to build a new home, moving the new home to just outside the 110' buffer.

See attached survey with pervious area shown.

Variance to exceed lot coverage limitations by (15%) by 8%

E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNATION

Is property in the Critical Area?

If yes, Pertinent provision of the Chesapeake Bay Critical Area Program

Is property in the 100 year Floodplain?

Is property an Agricultural Preservation District?



YES



NO



YES



NO



YES



NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISION OF ZONING ORDINANCE:

Art. XI, Pt. I, Sect. 200.13 ; Art. XVII, Pt. I, Sect. 306

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO & CONDITIONS FOR APPROVAL:

I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please fill out the following information:

Will unit be visible from the road? _____ If yes, distance _____

Will unit be visible from adjoining properties? _____ If yes, distance _____

Distance to nearest manufactured home _____ Size/Model/Year of Unit _____

Number of units on property at present time: _____

Identity

Identify from: <Visit/

- 2019 aerials
 - RGB
- Parcels
 - GANSE GREGORY P
 - Surface Planimetrics (2011)
 - Sidewalks

Location: 494,063.186

Field	Value
Area_Acres	0.005281
Area_SqFt	230.047436
Class_String	Sidewalks
OBJECTID	415304
RoadType	<null>
Shape	Polygon
Shape_Area	21.372192
Shape_Length	26.434526
Year	<null>

Identified 3 features



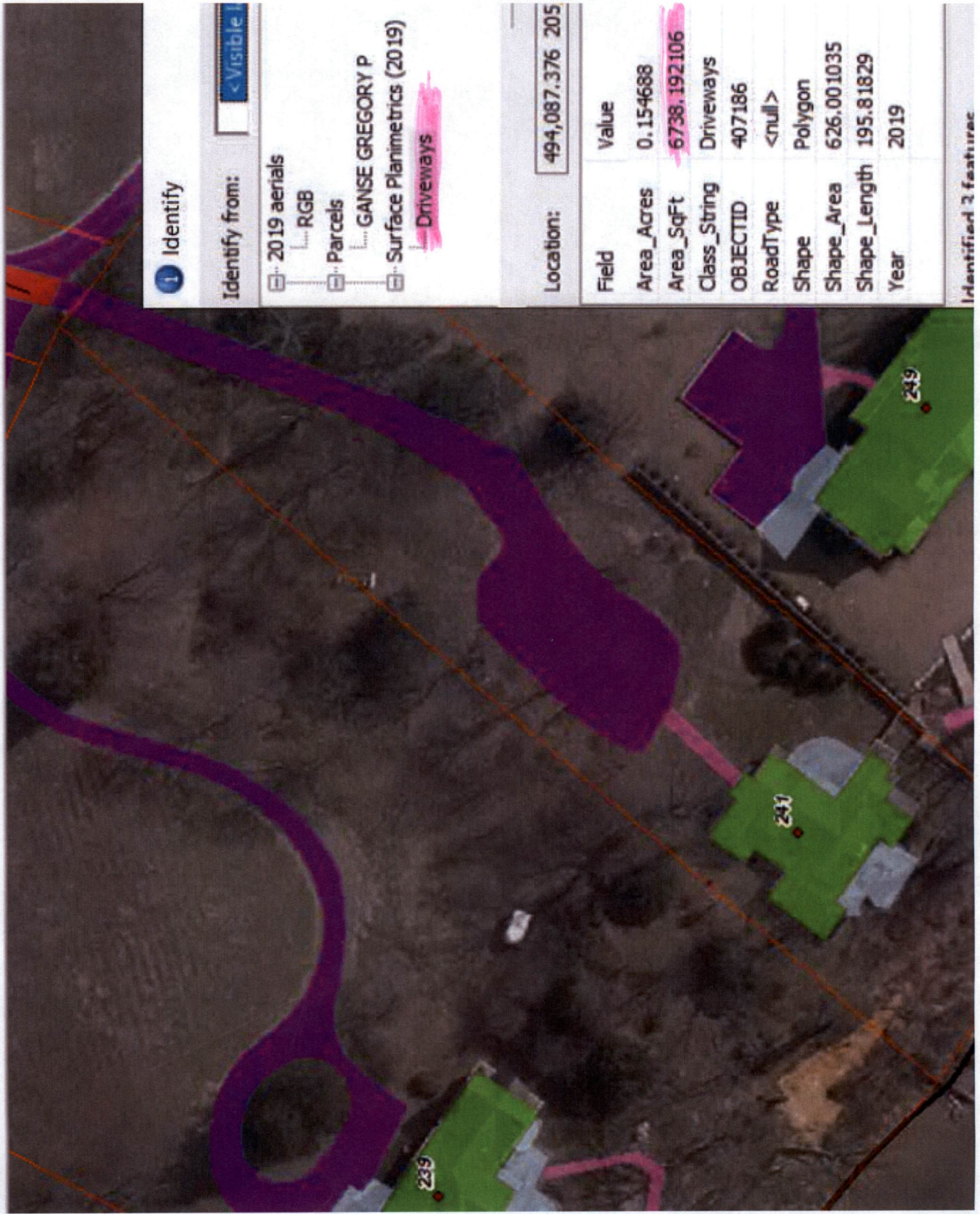
- 2019 aerials
 - RGB
- Parcels
 - GANSE GREGORY P
 - Surface Planimetrics (2019)
 - Buildings



Location: 494,053.853 20

Field	Value
Area_Acres	0.062664
Area_SqFt	2729.648223
Class_String	Buildings
OBJECTID	427078
RoadType	<null>
Shape	Polygon
Shape_Area	253.593632
Shape_Length	86.144595
Year	<null>

Identified 3 features



1 Identify

Identify from:

- 2019 aerials
 - RGB
- Parcels
 - GANSE GREGORY P
 - Surface Planimetrics (2019)
 - Driveways

Location:

Field	Value
Area_Acres	0.154688
Area_SqFt	6738.192106
Class_String	Driveways
OBJECTID	407186
RoadType	<null>
Shape	Polygon
Shape_Area	626.001035
Shape_Length	195.81829
Year	2019

Identified 3 features

P. 372

P. 365

OLD FIELD POINT CIR

VEASEY FORD RD

P. 368

P. 369

P. 210

P. 16

P. 427

P. 41

P. 16

P. 17

P. 18

P. 371

Subject Property

P. 19

P. 338

P. 20

FILE 4163 - VARIANCE
GREGORY & SARAH GANSE
ROGER LEONARD
MAP 42 PARCEL 418

23